

ORDINANCE NO. 1749

AN ORDINANCE TO PROVIDE FOR THE VACATION, REMOVAL, REPAIR OR DEMOLITION OF ANY BUILDING OR STRUCTURE WHICH IS OR THREATENS TO BE A PUBLIC NUISANCE, DANGEROUS TO HEALTH, MORALS, SAFETY OR GENERAL WELFARE OF THE PEOPLE OF THE CITY OF TALLADEGA, ALABAMA, OR WHICH MIGHT TEND TO CONSTITUTE A FIRE MENACE; AND FOR THE ASSESSMENT OF THE COST OF VACATION, REMOVAL, REPAIR OR DEMOLITION THEREOF AS A MUNICIPAL LIEN OR ASSESSMENT AGAINST SUCH PREMISES, AND TO PROVIDE FOR THE RECOVERY OF SUCH COSTS AS PROVIDED BY LAW; AND TO REPEAL ORDINANCE NO.1240 AND ORDINANCE 1516.

WHEREAS, in the City of Talladega, Alabama, there are, or may in the future be, parcels of real property that are occupied by buildings or structures or parts of buildings and structures, party walls and foundations that due to poor design, obsolescence, or neglect, have become unsafe, dangerous and unsanitary to the extent of becoming public nuisances and a menace to the health, morals, safety and general welfare of the people of the City of Talladega and an impediment to economic development within the City of Talladega, Alabama. It is the intent of the City of Talladega, Alabama, to minimize the adverse effect of the described unsafe conditions upon the health, morals, safety and general welfare of the citizens of this City and property located within this City and to that end the City Council of the City of Talladega adopts this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF TALLADEGA, ALABAMA, AS FOLLOWS:

**SECTION 1. DEFINITIONS:**

A. "Appraised Value" means the improvement value assigned to the property by the Revenue Commissioner of Talladega County, Alabama, as described on the Property Record Card for the property maintained in the office of the Revenue Commissioner of Talladega County, Alabama.

B. "Appropriate Municipal Official", sometimes referred to as "Official" herein, means any municipal building official or deputy and any other municipal official or municipal employee designated by the City Manager of the City of Talladega as the person to exercise the authority and perform the duties delegated by this Ordinance.

C. "Circuit Clerk" means the Circuit Clerk of the Circuit Court of Talladega County, Alabama.

D. "Circuit Court" means the Circuit Court of Talladega County, Alabama.

E. "City" means the City of Talladega, Alabama.

F. "City Clerk" means the City Clerk of the City of Talladega, Alabama.

G. "City Council" means the City Council of the City of Talladega, Alabama.

H. "City Manager" means the City Manager of the City of Talladega, Alabama.

I. "Owner" means the person or persons, firm, association or corporation who is the record owner of the property according to the records in the office of the Judge of Probate of Talladega County, Alabama.

J. "Person" means any natural or legal person including, but not limited to, partnerships, corporations and limited liability companies.

K. "Unsafe, untenable or dangerous condition" means all buildings or structures which have any or all of the following defects shall be deemed unsafe, untenable or dangerous condition:

1. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

2. Those which have been damaged by fire, wind and/or other causes so as to have become dangerous to life, safety, morals or the general health or welfare of the occupants or the people of the City of Talladega, Alabama;

3. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

4. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live therein or may live therein;

5. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of evacuation;
6. Those which have parts thereof which are so attached that they may fail and injure members of the public or property;
7. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this City;
8. Those buildings existing in violation of any provision of the building code or any other relevant code of this City, or any provisions of the fire prevention code, or other ordinances of this City.

**SECTION 2. OWNERS TO KEEP BUILDINGS IN SAFE AND TENABLE CONDITION:**

It shall be unlawful for any person owning any building or structure in the City of Talladega, Alabama, to keep or maintain the same in an unsafe, untenable or dangerous condition. It shall be the duty of every person owning any building or structure in the City to keep the same in a safe and tenable condition or to cause the same to be removed.

**SECTION 3. STANDARDS FOR REPAIR, VACATION OR DEMOLITION:**

The following standards shall be followed in substance by the Official or any other person designated by the City Manager in ordering repair, vacation or demolition:

- A. If the unsafe, untenable or dangerous condition can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired;
- B. If the unsafe, untenable or dangerous condition is such that it makes it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;
- C. In any case where there exists an unsafe, untenable or dangerous condition such that the building or structure is damaged or has decayed or deteriorated to the extent that the value of said building or structure is valued at fifty percent (50%) or less of its appraised value, then the building or structure shall be ordered demolished;
- D. In all cases where a building cannot be repaired so that it will no longer exist in violation with the terms of this Ordinance, it shall be demolished;
- E. In all cases where an unsafe, untenable or dangerous condition exists such that it creates a fire hazard existing or erected in violation of the terms of this Ordinance, or any Ordinance of the City or statute of the State of Alabama, it shall be demolished.

**SECTION 4. BUILDINGS OR STRUCTURES IN AN UNSAFE, UNTENABLE OR DANGEROUS CONDITION - NUISANCES:**

All buildings or structures which are found to exist in an unsafe, untenable or dangerous condition within the terms of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided. The City may, after notice as provided herein, move or demolish buildings and structures or parts of buildings and structures, party walls, and foundations when found by the City Council to be unsafe to the extent of being a public nuisance from any cause.

**SECTION 5. DUTIES OF THE APPROPRIATE MUNICIPAL OFFICIAL:**

- A. Whenever the Appropriate Municipal Official (“Official”) upon making a visual inspection finds that any building, structure, part of building or structure, party wall, or foundation (hereinafter referred to for purposes of this Section as “the building”) situated in the City is unsafe to the extent that it is a public nuisance, the Official shall make a determination of the extent of the unsafe, untenable or dangerous condition. The Official shall make a written record of the defective condition observed by the Official that causes the Official to conclude that the building is unsafe, untenable or dangerous. The Official shall note in the written record whether the building qualifies for repair or demolition;
- B. The Official shall verify ownership of the property based upon the current tax assessment in the office of the Revenue Commissioner of Talladega County and confirm ownership by an examination of the public records in the office of the Judge of Probate of Talladega County. The Official shall verify whether the property is subject to a real estate mortgage by an examination of the public records in the office of the Judge of Probate of Talladega County, Alabama.
- C. After verifying ownership of the property, the Official shall make a written request of the Owner for permission to enter upon the property and into any building for the purpose of further inspection. Upon securing written permission from the owner of the property, the Official shall enter upon the property and into any buildings for the purpose of conducting an inspection of the building. Following the inspection, the Official shall, as in the case of making the initial inspection, make a written record of the defective conditions observed by the Official that cause the building to be unsafe, untenable or in dangerous condition.

A failure or refusal of the owner of the property to grant permission for entry into the building to the Official within fourteen (14) days of the request shall cause the notice required in Section 6 to be issued immediately by the Official without further inspection.

**SECTION 6. NOTICE:**

- A. Following the inspection required in Section 5 C., the Official shall give notice in writing by certified or registered mail to the following:
1. the named owner last assessing the property for ad valorem taxes at the address listed on the property assessment in the office of the Revenue Commissioner of Talladega County, Alabama; and ,
  2. to any transferee or Grantee of said owner as may be determined from an examination of the real property records in the office of the Judge of Probate of Talladega County, Alabama; and,
  3. to all mortgagees of record
- B. Contents of the Notice - The notice shall:
1. inform the owner of the unsafe or dangerous condition of the building by providing to the owner a copy of the written record of inspection made by the Official;
  2. direct the owner to not take any action to correct the defective condition until a public hearing is held before the City Council to determine whether the building will be rehabilitated and repaired or demolished;
  3. direct the owner to develop a plan of work to remedy the unsafe or dangerous condition of the building and to provide the written plan of work to the Official not later than twenty-five (25) days from the date on the notice;
  4. inform the owner that a public hearing will be held before the City Council on a date stated in the notice, which said date shall not be less than thirty (30) days of the date on said notice; and,
  5. inform the owner that failure by the owner to file a written reply within the time allowed may result in the building or structure being declared a public nuisance by the City Council following the public hearing and being demolished by the City, and the cost thereof assessed against the property as hereinafter provided in Section 8.
- C. Plan of Work - The plan of work submitted by the owner shall include:
1. a detailed plan of the repairs to be made;
  2. the estimated cost of the repairs;
  3. the estimated time for completion of the repairs; and,
  4. the identification of the qualified licensed contractor performing the repairs including the name, address and license number of the contractor and written evidence of a contract between the owner and the contractor for the repairs to be made on the property.
- D. Alternative to Plan of Work - Alternatively, the owner may choose to demolish the building, and upon making such election, the owner shall notify the Official in writing of the owner's intent to demolish the building. The reply from the owner to the Official shall be made within twenty-five (25) days of the date appearing on the notice.
- E. Effect of Notice - The mailing of the certified or registered mail notice, properly addressed and postage prepaid, shall constitute notice as required herein.
- F. Posting Notice - The Official shall post the notice, or a copy thereof, within three (3) days of the date of mailing at or within three feet (3') of an entrance to the building or structure. If there is no entrance, the notice may be posted at any location on the building or structure.
- G. *Lis Pendens* - The Official shall prepare or cause to be prepared and filed a *Lis Pendens* in the office of the Judge of Probate of Talladega County, Alabama, identifying the property subject to the enforcement provisions of this Ordinance by name of the owner, the legal description of property and the physical address of the property.

**SECTION 7. OBJECTIONS AND HEARING:**

- A. Time for Response and Content of Response - Within the time specified in the notice described in Section 6, but not more than twenty-five (25) days from the date the notice is given, any person owning or having an interest in the building or structure described in the notice shall do one of the following:
1. File a written request for a hearing before the City Council for the purpose of stating objections to the finding by the Official that the building or structure is unsafe to the extent of becoming a public nuisance; or

2. File a plan of work that shall include the information required by Section 6 C;  
or,
3. Give written notice to the Official of the owner's intent to demolish the building as set forth in Section 6. D.

**SECTION 8. ACTION BY CITY COUNCIL:**

A. Following a public hearing on an objection by the owner to the findings of the Official or on the submission of a plan of work by the owner, the City Council shall take one of the following two actions:

1. Approve and accept at the public hearing the plan of work. The proposed time for completion of the repairs will be within sixty (60) days from the date of the public hearing and the owner shall pay a permit fee to the Building Inspector of the City of Talladega that shall be in addition to any required building permit fee as follows:
  - a. a permit fee for a plan of work to make and complete repairs within the sixty (60) day period following the date of the public hearing shall be Two Hundred Fifty and no/100 (\$250.00) Dollars;
  - b. a permit fee for a plan of work to make and complete repairs in more than sixty (60) days but less than one hundred (120) days from the date of the public hearing shall be Five Hundred and no/100 (\$500.00) Dollars;
  - c. the cost of a permit fee for any extension of time for completion of the work after one hundred twenty (120) days shall be Two Hundred and no/100 (\$200.00) Dollars each for each thirty (30) day extension; provided however, no extension will be granted for a period that extends more than one hundred eighty (180) days from the date of the building permit issuance.
  - d. No work may commence or proceed without the payment of the permit fee and the issuance of the required permit and a building permit fee. The time period for the permit shall run from the date of the public hearing, not from the date of the issuance of the permit.

- e. During the permit term, if adequate progress is not being made according to the owner's proposed plan of work, then the Official shall:
  - i. issue an order to cease work. Upon issuance of the cease work order, the issue of whether the building or structure constitutes a public nuisance shall be resubmitted to the City Council at a public hearing. Notice as described in Section 6 shall be provided; or
  - ii. inform the City Council of the owner's intent to demolish the building or structure and the time within which the building will be demolished.
- 2. If the owner informs the Official that the building is to be demolished and the building is not demolished within thirty (30) days following the date of the public hearing, or if the owner fails to complete the plan of work and informs the Official pursuant to Section 8 A. 1. e. ii. of such intent, then the City Council shall:
  - a. acting upon the information provided by the owner of the owner's intent to demolish the building, declare by resolution the building or structure to constitute a public nuisance and shall order the building or structure demolished by the owner; and,
  - b. upon failure of the owner to demolish the building within thirty (30) days from the date of the resolution, the City may proceed to contract for the demolition of the building or structure by the City and the costs thereof shall be assessed against the property as provided in Section 9.
- B. A filing under Section 7 A., above, shall hold in abeyance any action on the finding of the Official until determination thereon is made by the City Council.
- C. Upon holding the requested hearing, which hearing shall be held not less than five (5) nor more than thirty (30) days after the request for a hearing by the owner, or in the event no hearing is timely requested, the City Council, after the expiration of thirty (30) days from the date the notice is given, shall determine by resolution adopted by the City Council whether or not the building or structure is unsafe to the extent that it is a public nuisance.
- D. If it is determined by resolution of the City Council that the building or structure is unsafe to the extent that it is a public nuisance, the City Council shall, subject to the provisions of A. 2., above, regarding the owner's intent to demolish, order the building or structure be demolished. The demolition may be accomplished by the City by the use of its own forces, or it may provide by contract for the demolition. The City may sell or otherwise dispose of salvaged materials resulting from the demolition.
- E. Any person aggrieved by the decision of the City Council referred to paragraph C, above, may, within ten (10) days thereafter, appeal to the Circuit Court upon filing with the Circuit Clerk notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. Upon filing of the notice of appeal and approval of the bond, the Circuit Clerk shall serve a copy of the notice of appeal on the City Clerk and the appeal shall be docketed in the Circuit Court, and shall be a preferred case therein. The City Clerk shall, upon receiving the notice, file with the Circuit Clerk a copy of the findings and determination of the City Council in its proceedings. Any trials shall be held without jury upon the determination of the City Council that the building or structure is unsafe to the extent that it is a public nuisance.

**SECTION 9. REPORT OF DEMOLITION AND COLLECTION OF COST:**

- A. Upon demolition of the building or structure, the Official shall make a report in writing to the City Council of the cost of the demolition. The City Clerk shall give notice by first class mail of the meeting of the City Council at which the fixing of the costs is to be considered to all entities having an interest in the property whose address and interest is determined from the Talladega County Revenue Commissioner's records on the property or is otherwise known to the City Clerk. A copy of the report filed by the Official with the City Council shall be included in the said notice.
- B. At its next regular meeting after receiving the report, the City Council shall adopt a resolution fixing the costs which it finds were reasonably incurred in the enforcement of this ordinance and assessing the costs against the property. The proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of enforcement of this ordinance including any costs of demolition.
- C. Any person owning or having an interest in the property may be heard at the meeting as to any objection to the fixing of the costs or the amounts thereof.

- D. The fixing of the costs by the City Council shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located and thus made and confirmed shall constitute a lien on the property for the amount of the assessment. The lien shall be superior to all other liens on the property except liens for taxes, and shall continue in force until paid.
- E. The City Clerk shall give notice by first class mail of the adoption of the resolution fixing the costs of demolition to all persons owning or having an interest in the property whose address and interest is determined from the Talladega County Revenue Commissioner's records on the property or is otherwise known to the City Clerk. Payment of the amount of the costs of demolition shall be due within thirty (30) days from the date of the adoption of the resolution.
- F. Upon nonpayment of the amount of the costs of demolition, the City Clerk shall file a certified copy of the resolution in the office of the Judge of Probate of Talladega County and shall furnish a copy of the recorded resolution to the Talladega County Revenue Commissioner. Upon filing, the Talladega County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax and remit the amount to the City.
- G. The City may assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where assessment is made against the lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the State, shall not operate to discharge, or in any manner affect the lien of the City for the assessment, but any redemptioner or purchaser at any sale by the State of any lot or lots, parcels or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the State for the nonpayment of taxes, shall take the same subject to the assessment. The assessment shall then be added to the tax bill of the property, collected as a tax, and remitted to the City.

**SECTION 10. PENALTY FOR VIOLATION:**

In addition to the declaration of public nuisance and abatement of public nuisance as provided for herein and the right to reimbursement of costs and liens associated therewith, as an additional remedy and penalty, the Official may cause a complaint to be filed in the Municipal Court of the City of Talladega alleging a violation of any provision of this Ordinance against any person found to be in violation of this Ordinance, which said complaint shall be heard and tried in the Municipal Court of the City of Talladega in the same manner as other violations of municipal ordinances of this City. Any person found to be in violation of any of the provisions of this Ordinance, in addition to any other public nuisance abatement provisions and costs provided for hereinabove in this Ordinance, shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as follows: for first time violations of any section or provisions of this Ordinance there shall be imposed fine of not less than \$50.00 for the first offense plus court costs; for the second violation of any section or provisions of this Ordinance, there shall be imposed a fine of not less than \$100.00, plus court costs; for any violation after the second violation of this Ordinance, there shall be imposed a fine of not less than \$200.00, plus court costs. A violation occurs upon failure of the owner to take the required action described in Section 7 following the expiration of twenty-five (25) days as provided in the notice described in Section 6; provided however, that the violation will be held in abeyance upon the timely filing of an objection as provided in Section 7 until such time that a resolution is entered by the City Council pursuant to Section 8, and each day thereafter in which a violation occurs or continues shall be deemed a separate offense.

**SECTION 11. SEVERABILITY:**

All sections of this Ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 12. EFFECTIVE DATE:**

This Ordinance shall take effect from and after the date of its adoption and publication, as provided by law.

**SECTION 13. REPEAL:**

Upon the effective date of this Ordinance, Ordinance Number 1240 and any amendments thereto and Ordinance Number 1516 and any amendments thereto are hereby repealed.

Adopted the 3<sup>rd</sup> day of June, 2013.  
Council President Horace Patterson  
Councilman Jarvis Elston  
Councilman Joe Ballow  
Councilman Donnie Miller  
Councilman Rick Simpson  
Approved the 3<sup>rd</sup> day of June, 2013  
City Manager Brian Muenger  
Attested to: Elizabeth Cheeks, City Clerk